



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,669	11/10/2003	Satoshi Mizutani	20050/0200480-US0	4672

7278 7590 11/01/2004

DARBY & DARBY P.C.

P. O. BOX 5257

NEW YORK, NY 10150-5257

EXAMINER

FOSTER, JIMMY G

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 11/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,669

Applicant(s)

MIZUTANI ET AL.

Examiner

Jimmy G Foster

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/11/04; 7/08/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Art Unit: 3728

1) The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States
- (e) the invention was described in
 - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or
 - (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2) Claim 1, 2, 4, 5, 7, 9, 10, 14, 16, and 12-17 are rejected under 35 U.S.C. § 102(b) as being anticipated by Leeker (H1363). In the reference of Leeker there is provided a wrapping container/package body 50, including frangible seals 72,72', a resealable sealing means 60. The wrapping container is openable to a flat sheet (Figs. 5,6) but is also openable into a pocket portion and non-pocket portion. The device is for absorbent articles, including interlabial pads (col. 3, lines 23-49, particularly lines 42-45). The unwrapped package will have a size sufficient to receive a used pad (see Fig. 6).

Art Unit: 3728

3) The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4) Claims 1, 2, 4-7, 9-11, 13, 14, 16 and 18 are rejected under 35 U.S.C. § 102(e) as being anticipated by Farris et al, or in the alternative under 35 U.S.C 1303(a) as being unpatentable over Farris et al (6,131,736) in view of the incorporated disclosure of Swanson et al (4,556,146). In the reference of Farris et al there is provided a wrapping body/container/package 40/50 that is wrapped about an interlabial pad 20. The wrapping container is permanently sealed at seal 60 on the ends/overlapping parts. In addition, there is provided a resealable seal at 36. In Figures 2, 6A and 6B, the package is larger in size than the pad and therefor is inherently capable of re-receiving the enlarged pad, once used (see col. 4, lines 46-59), whereupon the resealable seal 36 may be resealed. Therefore, the package has enough size to receive the pad in a developed state.

The seals 60 provide a pocket portion between them into a pocket portion. The opening of the pocket may be considered to have a dimension longer than the bottom of the pocket since the opening includes the opening members/unwrapping parts 55. In addition, parts 55 may be considered to be

Art Unit: 3728

released when the seal 36 is unsealed. This would permit insertion of the used content as described in the reference.

The pad inherently has a finger opening (see Figs. 1, 3, 5, 7). The opening is between the sides 24A and 24B. Grasping of the grasping portion 28 inherently requires at least one finger to enter partially the location between the sides 24A and 24B.

See the discussion of the reference regarding the permanent seal (col. 8, lines 31-51). Although the seal 60 is said to be permanent, the reference indicates that the term "permanent" means *un-resealable*. Moreover, the reference indicates that suitable methods of frangibly sealing the edges of a package are known (lines 46-51), which methods are incorporated into the reference. Accordingly, the reference sufficiently discloses that the seal 60, although un-resealable, may be made frangible; that is, the seal may be breakable (the definition of "frangible"). This means that the package may be inherently opened into a flat form. Therefore the wrapping container is inherently capable of unwrapping into planar form and being used as a waste discarding sheet.

Alternatively, the reference, from the description, sufficiently teaches/discloses that the seal 60 may be made frangible in the manner of Swanson 4,556,146 (which is suitable for disposal of a used absorbent article), that it would have been obvious in view of this teaching to have made the container of Farris et al (which is also for holding the used article) with frangible seals and therefore made the container unwrappable into planar form.

Art Unit: 3728

5) Claims 3, 8, 12, 15, 17 and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Farris et al (6,131,736) in view of published Japanese patent application document 2000-51265 to Kao Corp. The reference of Kao Corp suggests that the material of a package for personal absorbent articles may be provided with embossing, which will provide fine protrusions on the surface of a face of the package, which will provide enhanced friction and prevent individual package from slipping with each other in an outer package (see abstract). Accordingly, it would have been obvious in view of this teaching to have made the surface of the face of the wrapping container of Farris et al with embossing/fine protrusions.

6) Claims 3, 8, 12, 15 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Leeker (H1363) in view of published Japanese patent application document 2000-51265 to Kao Corp. The reference of Kao Corp suggests that the material of a package for personal absorbent articles may be provided with embossing, which will provide fine protrusions on the surface of a face of the package, which will provide enhanced friction and prevent individual package from slipping with each other in an outer package (see abstract). Accordingly, it would have been obvious in view of this teaching to have made the surface of the face of the wrapping container of Leeker with embossing/fine protrusions.

7) Claims 1, 2, 4-7, 5, 9-11, 13, 14, 16 and 18 are also rejected under 35 U.S.C. § 103(a) as being unpatentable over Farris et al (6,131,736) as applied to 1, 2, 4, 5, 9-12 and 14-19, and further in view of Lee et al (WO 99/23984). The reference of Lee et al concerns any personal absorbent

Art Unit: 3728

articles (pg. 1, lines 13-14), even though interlabial pads are not mentioned *per se*. The reference of Lee et al (pg. 2, lines 31-32) teaches that the wrapping container for a personal absorbent article should be of sufficient size, substantially larger than the absorbent article, to suitably receive a used article. Accordingly, it would have been obvious in view of this teaching to have further made the wrapping container of Farris et al with sufficient size to receive for disposal the used interlabial pad of Farris et al.

8) Claims 11 and 18 are also rejected under 35 U.S.C. § 103(a) as being unpatentable over Farris et al (6,131,736) as applied to claims 11, 18 above, and further in view of Wierlacher (WO 99/01096). The reference of Wierlacher, at the abstract; page 3, lines 28-30; page 4, lines 16-19; and page 20, lines 26-31, suggests that an interlabial pad may be made with an opening on the rear side for receiving the finger of the user for holding and applying the pad. Accordingly, it would have been obvious in view of Wierlacher to have provided the interlabial pad of Farris et al with a finger opening for holding and applying the pad for use.

9) Claim 19 is also rejected under 35 U.S.C. § 103(a) as being unpatentable over Farris et al (6,131,736) in view of Kao Corp (JP 2000-51265) as applied to claims 3 above, and further in view of Wierlacher (WO 99/01096). The reference of Wierlacher, at the abstract; page 3, lines 28-30; page 4, lines 16-19; and page 20, lines 26-31, suggests that an interlabial pad may be made with an opening on the rear side for receiving the finger of the user for holding and applying the pad. Accordingly, it

Art Unit: 3728

would have been obvious in view of Wierlacher to have provided the interlabial pad of Farris et al with a finger opening for holding and applying the pad for use.

10) Claims 11 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Leeker (H1363) in view of Wierlacher (WO 99/01096). The reference of Wierlacher, at the abstract; page 3, lines 28-30; page 4, lines 16-19; and page 20, lines 26-31, suggests that an interlabial pad may be made with an opening on the rear side for receiving the finger of the user for holding and applying the pad. Accordingly, it would have been obvious in view of Wierlacher to have provided the interlabial pad of Leeker with a finger opening for holding and applying the pad for use.

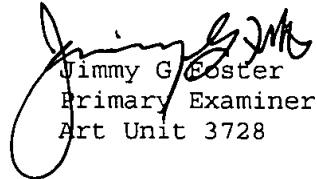
11) Claim 19 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Leeker (H1363) in view of Kao Corp (JP 2000-51265) to as applied to claims 3 above, and further in view of Wierlacher (WO 99/01096). The reference of Wierlacher, at the abstract; page 3, lines 28-30; page 4, lines 16-19; and page 20, lines 26-31, suggests that an interlabial pad may be made with an opening on the rear side for receiving the finger of the user for holding and applying the pad. Accordingly, it would have been obvious in view of Wierlacher to have provided the interlabial pad of Leeker with a finger opening for holding and applying the pad for use.

12) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy G Foster whose telephone number is (703) 308-1505. The examiner can normally be reached on Mon-Fri, 8:45 am - 5:15 pm.

Art Unit: 3728

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (703) 308-2672. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


Jimmy G. Foster
Primary Examiner
Art Unit 3728

JGF
28 October 2004